

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee  
Hon. Elihu M. Berle, Chair  
Uniform Rules Subcommittee  
Mr. Curtis E. A. Karnow, Chair  
Patrick O'Donnell, Committee Counsel, 415-865-7665,  
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DATE: October 3, 2003

SUBJECT: *Proof of Service of Summons* (revise, rename, and renumber form  
982(a)(23) as form POS-010); amend Cal. Rules of Court, rule 982.9)  
(Action Required)

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Issue Statement

*Proof of Service (Summons)* (form 982(a)(23)) was last revised effective January 1, 1987. It needs to be modified to reflect recent legislation. It also does not conform to the contemporary format of Judicial Council forms or the new numbering scheme being developed for proof of service forms. And the form should be improved in various other respects to make it clearer and easier to use.

Rule 982.9 of the California Rules of Court, on typewritten proof of service forms, was adopted effective January 1, 1985 to authorize the filing of proofs of service of summonses prepared by typewriter or word processor. Subsequently, the rule was amended to provide that, notwithstanding the adoption of form 982(a)(23), parties are still authorized to prepare a proof of service of summons by typewriter or word processor if certain conditions are met. Because of technological developments and the proposed changes in the Judicial Council's forms for proof of service of summons, this rule should be revised.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2004:

1. Revise, rename and renumber *Proof of Service (Summons)* (form 982(a)(23)) as *Proof of Service of Summons* (form POS-010) to conform to recent legislation, make technical changes, and improve the form; and
2. Amend rule 982.9 of the California Rules of Court to be consistent with the revised form, current practice, and contemporary technology.

Form POS-010 is attached at pages 5–6. The text of amended rule 982.9 is attached at pages 7–12.

#### Rationale for Recommendation

##### *Proof of Service of Summons* (form POS-010)

This form is based on existing form 982(a)(23), which was last revised effective January 1, 1987. The revised form has been renumbered as part of the series of new proof of service ("POS") forms that are in development. Its caption and other features conform to contemporary Judicial Council format and style. Some of the features of the recently approved family law *Proof of Service of Summons* (form FL-115) have been incorporated into the form.

Form POS-010 will enable parties to comply with Code of Civil Procedure section 417.10(f), which requires that all proofs of personal service of summons be submitted on a form adopted by the Judicial Council. At the same time that form POS-010 is being revised, all the proofs of service of summons on the reverse sides of existing Judicial Council summons forms are being eliminated.<sup>1</sup> Effective January 1, 2004, form POS-010 will be used for proof of service of summonses and complaints in most types of civil proceedings.<sup>2</sup>

Revised form POS-010 contains two pages rather than one to provide more space for information. The form includes a standard list of certain documents that are regularly served with the summons (i.e., the *Civil Case Cover Sheet* and the ADR package). It also provides more space for information about the party served, the person who served the documents, and other matters.

Finally, the proof of service form to reflect the enactment of Assembly Bill 418. To reflect the amendment of Code of Civil Procedure section 415.20, the form provides a means to indicate proof that substitute service has been made on a person, whose physical address is unknown, by leaving a copy of the documents at his or her usual mailing address other than a United States Postal Service post office box, with the person who is apparently in charge thereof and thereafter mailing a copy of the

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<sup>1</sup> A separate Judicial Council report on revising the summons forms describes this change.

<sup>2</sup> It should be noted that the Judicial Council previously adopted form FL-115 to be used for proof of service of summonses and pleadings in family law, uniform parentage, and custody and child support proceedings.

documents by first-class mail, postage prepaid, to the person at the address where the documents were left. To reflect the enactment of new section 415.95, the form has also been modified to include a place to indicate that a business organization, form unknown, has been served.

#### *Amended Rule 982.9*

Rule 982.9 authorizes proofs of service prepared entirely by typewriter, word processor printer, or similar process to be used for proof of service of summons if certain conditions are met. This rule was adopted in the 1980s. At that time, Judicial Council forms were often completed using typewriters. However, significant developments in technology have occurred since rule 982.9 was adopted.

In reviewing the rule, the Civil and Small Claims Advisory Committee initially questioned whether it is still needed. It is no longer physically difficult or unduly expensive to complete and print out a Judicial Council form on a computer. Furthermore, since earlier this year, all Judicial Council forms have been available in fillable versions on various websites, including the Self-Help Center on the Judicial Council's Web site (<http://www.courtinfo.ca.gov>). Thus, today persons are able to complete Judicial Council forms, including proof of service forms, online. Accordingly, the committee circulated a proposal to repeal rule 982.9.

However, as the comments indicate, there are convincing reasons to continue to authorize the filing of specially prepared proof of service forms with the courts. Computer-generated forms require less paper. They also reduce the costs and improve the efficiency of business operations for professional process servers. The computer-generated forms have been used for many years and are recognized and accepted by the courts. So instead of recommending the repeal of rule 982.9, the committee recommends modernizing its language. The amended rule would clearly authorize computer-generated proof of service forms and specify that such forms must be consistent with revised form POS-010.

#### Alternative Actions Considered

The committee considered repealing rule 982.9 altogether. But based on the comments, it concluded that an amended version of the rule should be retained.

#### Comments From Interested Parties

A total of 18 comments were received from interested parties.<sup>3</sup> The commentators included a superior court rules' committee, several court administrators, the State Bar's Committee on the Administration of Justice, a local bar association, a sergeant

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<sup>3</sup> A chart summarizing the comments is attached at pages 13–30.

with the Los Angeles County Sheriff's Department, and a number of organizations representing professional process servers.

Some commentators agreed with the proposed changes in the form positively ("wonderful form") or without any comments. The remaining commentators were divided between those who supported revising it and those who recommended retaining the existing one-page form. One commentator observed: "This version improves on the current form in both clarity and simplicity." Also, the revised form is designed to provide proof of service under recently enacted statutes, which makes it superior to the existing form. Accordingly, the committee recommends adoption of the revised two-page form.

Regarding rule 982.9, as indicated above, the committee had originally proposed repealing the rule. However, a number of commentators—in particular, professional process servers' organizations—strongly recommended retaining the rule, which permits these organizations to use their own computer-generated forms. Based on the comments, the committee concluded that the rule should be amended to authorize computer-generated proofs of service consistent with form POS-010 rather than be repealed. This will permit process servers to continue their current methods of preparing proofs, which has been efficient and will generally require the filing of less paper.

#### Implementation Requirements and Costs

Court and practitioners will need to become accustomed to the new proof of service form. And courts will need to make copies of this form available to litigants. But the form will be an improvement because it should be easier to use than the current versions, will replace several existing forms, and is designed to provide proof of service by most means statutorily available under current law.

Amended rule 982.9, which modernizes the existing rule, should not require any additional implementation or result in any additional costs. It continues to authorize litigants to end professional process servers to use computer-generated proof of service forms.

#### Attachments

Rule 982.9 of the California Rules of Court is amended, effective January 1, 2004, to read:

**Rule 982.9. Typewritten Computer-generated or typewritten forms for proof of service forms of summons and complaint**

**(a) [Computer-generated or typewritten forms; conditions]**

Notwithstanding the adoption of mandatory form 982(a)(23), a Proof of Service (Summons), Proof of Service of Summons (form POS-010), a form for proof of service of a summons and complaint prepared entirely by typewriter, word processor, printer, typewriter, or similar process may be used for proof of service in any applicable action or proceeding if the following conditions are met:

- (1) Rules 201 and 501 ~~shall be observed~~ applies except as otherwise provided in this rule, but numbered lines ~~shall~~ are not be required.
- (2) The left, right, and bottom margins of the proof of service shall must be at least one-half inch. The top margin ~~shall~~ must be at least three-quarters of an inch. The typeface ~~shall~~ must be Times, Courier, or an equivalent roman typeface not smaller than 12 points. Text ~~shall~~ must be single-spaced and a blank line ~~shall~~ must precede each main numbered item.
- (3) The title and all the text of form 982(a)(23) POS-010 that is not accompanied by a checkbox ~~shall~~ must be copied word for word except for instructions, which must not be copied. All the relevant text that is optional (that is, accompanied by a checkbox) ~~shall~~ must be copied word for word except that the checkboxes ~~shall~~ must not be copied.
- (4) The Judicial Council number of the Proof of Service (Summons) of Summons ~~shall~~ must be typed as follows either in the left margin of the first page opposite the last line of text or at the bottom of each page: "Judicial Council form 982(a)(23) POS-010."
- ~~(4)~~(5) The text of form 982(a)(23) POS-010 ~~shall~~ must be copied in the same order as it appears on the printed form using the same item numbers. A declaration of diligence may be attached to the proof of service or inserted as item ~~3b(5)~~ 5b(5).

1           (6) Areas marked "For Court Use" ~~shall~~ must be copied in the same  
2           general locations and occupy approximately the same amount of  
3           space as on the printed form.

4  
5           ~~(5)~~(7) The telephone number of the attorney or party ~~shall~~ must appear  
6           flush with the left margin and below ~~after the address of the~~  
7           attorney's or party's address ~~on the same line with any reference or~~  
8           file number.

9  
10          ~~(6)~~(8) The name of the court ~~shall~~ must be flush with the left margin.  
11          The address of the court ~~shall~~ is not be required.

12  
13          ~~(7)~~ ~~The instructions found on the printed form shall not be copied.~~

14  
15          ~~(8)~~(9) Material that would have been typed onto the printed form ~~shall~~  
16          must be typed with each line indented three inches from the left  
17          margin. ~~This requirement shall not apply to items 1 and 5 of the~~  
18          form.

19  
20          ~~(9)~~ ~~The material in item 5 of the form may be arranged in two~~  
21          columns.

22  
23          (b) **[Compliance with rule]** The act of filing a computer-generated or  
24          typewritten form under this rule constitutes a certification by a the party  
25          or attorney filing the form that ~~the form~~ it complies with this rule and is  
26          a true and correct copy of the form to the extent required by this rule.

27  
28                   ~~SAMPLE TYPEWRITTEN PROOF OF SERVICE FORMS~~

29  
30           **[The sample forms that are attached hereto are deleted from rule 982.9]**

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the summons and
  - a. ☐ complaint
  - b. ☐ Alternative Dispute Resolution (ADR) package
  - c. ☐ Civil Case Cover Sheet (*served in complex cases only*)
  - d. ☐ cross-complaint
  - e. ☐ other (*specify documents*):
3. a. Party served (*specify name of party as shown on documents served*):  
  
b. Person served: ☐ party in item 3a ☐ other (*specify name and relationship to the party named in item 3a*):
4. Address where the party was served:
5. I served the party (*check proper box*)
  - a. ☐ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (*date*): (2) at (*time*):
  - b. ☐ **by substituted service.** On (*date*): at (*time*): I left the documents listed in item 2 with or in the presence of (*name and title or relationship to person indicated in item 3b*):
    - (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - (3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on (*date*): from (*city*): or ☐ a declaration of mailing is attached.
    - (5) ☐ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

- c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* (form 982(a)(4)) and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt (form 982(a)(4)).*) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ **by other means** (*specify means of service and authorizing code section*):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (*specify*):
- c. ☐ On behalf of (*specify*):

under the following Code of Civil Procedure section:

- |   |   |
|---|---|
| <input type="checkbox"/> 416.10 (corporation)                     | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation)             | <input type="checkbox"/> 416.60 (minor)                               |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee)                 |
| <input type="checkbox"/> 416.40 (association or partnership)      | <input type="checkbox"/> 416.90 (authorized person)                   |
| <input type="checkbox"/> 416.50 (public entity)                   | <input type="checkbox"/> 415.46 (occupant)                            |
|   | <input type="checkbox"/> other:                                       |

7. **Person who served papers**

- a. Name:
- b. Address:
- c. Telephone number:
- d. **The fee** for service was: \$
- e. I am:
- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☐ registered California process server:
- (i) ☐ Employee or independent contractor.
- (ii) Registration No.:
- (iii) County:

8. ☐ **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

9. ☐ **I am a California sheriff or marshal and** I certify that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

\_\_\_\_\_  
(SIGNATURE)



**SPR03-15****Service of Summons: Proof of Service of Summons**

(revise form POS-010) (formerly 982(a)(23)); repeal Rule 982.9 (Typewritten proof of service forms)

	<b>Commentator</b>		<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Ms. Andrea Agloro Executive Director Sonoma County Legal Aid	A	N	Agrees with proposed changes, without specific comments.	No response required.
2.	Mia Baker, Chair State Bar Standing Committee on the Delivery of Legal Services State Bar of California San Francisco, California	AM	Y	<p><i>Proof of Service of Summons (POS-010)</i>, This version improves on the current form in both clarity and simplicity. The first page is user-friendlier because of increased open fields and the deletion of repetitive and unnecessary text. (e.g., paragraph 3 "I served the party in item 2" is changed to: "I served copies of the summons and ....")</p> <p>We agree with the proposed changes, but also suggest the following:</p> <p>The delineations in item 5 regarding type of service not clearly set forth the type of service in bold face type, which is an improvement. However, we would suggest that item 5 not be split between pages 1 and 2, but that the spacing on the form be adjusted so that all of item 5 fits either at the bottom of page 1 or the top of page 2 for clarity and ease of use.</p> <p>A separate "PROOF OF SERVICE-GENERAL" form should be created.</p>	<p>Item 5 has been arranged to be clearer, and all of item 5b now appears on the first page.</p> <p>A separate general proof of service is being developed.</p>
3.	Hon. Ronald L. Bauer Rules and Forms Committee Superior Court of California, County of Orange	N	Y	The Rules and Forms Committee of the Orange County Superior Court reviewed this item at their meeting of June 12, 2003, and agree with the following comments submitted by the managers of Civil and Family Law Operations, and Commissioner	

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				<p>Barry S. Michaelson, member of the Rules and Forms Committee, for submission to the Judicial Council.</p> <p>If this form is to be used, the modifications below must be made:</p> <p>1. Insert the statement: <i>(Use separate proof of service for each person served)</i>. This statement is included on the summons forms and is helpful to the courts.</p> <p>2. Decrease the space between items 2 and 3 and between items 3c and 4 to allow all of item 5b to be reflected on one page.</p> <p>3. RE: item 5c(4): Many courts image documents; therefore, it would be helpful to the court process if the parties were instructed to attach the signed return receipt on a "separate 8 1/2 x 11 paper with a case number." Perhaps, they could be advised that they may use form MC-020.</p> <p>4. Insert a new item 5d to provide a place for parties to complete the required information set forth in Code of Civil Procedure section 417.10(e) after posting an unlawful detainer summons and complaint. Currently, the parties alter the proofs of service forms.</p> <p>5. RE: item 7d: "I am:" seems misplaced. The style</p>	<p>Agreed.</p> <p>All of item 5b now appears on the first page.</p> <p>The committee eliminated the requirement of attaching the return receipt.</p> <p>Item 5d (service by other means) provides a place where this information may be provided.</p>

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				might look better if "I am" was moved to the margin line above 7d(1).	Agreed. The form has been revised.
4.	Mr. Jason M. Burke Manager D & R Legal Process Service Fremont, California	N	N	<p><u>Rule 982.9:</u> I manage a small process serving company in Alameda County, I currently complete 50 to 100 proof of service forms each day for my servers to sign. It currently takes me 30 seconds to 1 minute to complete a proof using Pro-Serve, a program that under the new rules would be eliminated. This program is currently Judicial Council approved and also allows me to produce an invoice and a declaration of due diligence, something that the new form does not have. I am an area governor in the California Association of Photocopiers &amp; Process Servers (CAPPS), this organization consists of many process server companies throughout California. The industry is a 99% small family-owned business that relies completely on these computer programs to keep our business afloat and profitable. We have heavily invested in these programs and to have to turn around and disregard these programs that we have invested as much as \$5,000 in would be financially irresponsible. These programs allow us to do many different proofs, on a basic format, from family law to civil summons and small claims.</p> <p><u>Form POS-010:</u> The form proposed has a few flaws, such as: 1. Item 2: Removing person served from the proof</p>	The committee recommends retaining and amending rule 982.9 to be more up-to-date, instead of repealing it.

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				<p>does not allow us to list the owner or agent for service of a company, something that is required by code.</p> <p>2. Item 5b: There is no place for service as a usual place of mailing, not to mention it being split between two different pages (it is rather confusing).</p> <p>3. I was under the impression that California wanted to reduce the amount of paper it has to house. The proof has gone from 1 to 2 pages to 3 or more pages if you have to complete a declaration of diligence.</p> <p>4. The reason the form size has had to be enlarged is because you are trying to make the proof that covers any considerable way of service and still have room to list all the documents being served.</p> <p>5. This form is really intended for the pro per having a friend serve the papers or the single process server willing to hand-write or type it with a typewriter. Although it can be completed on line, not every person has access to the Internet. In the United States 60% of people do not have Internet access and have no interest in getting it.</p> <p>6. This new form will cost millions in storage fees for the California taxpayer or put a burden on the already cash-strapped court system. Also, it will cost the individual process server and company millions statewide by eliminating the programs that we</p>	<p>Agreed. The provisions in item 2 have been retained, but moved to item 3.</p> <p>A place for service in a usual place of mailing has been added. All of item 5b new appears on the first page.</p> <p>More pages are required for all the information. Those using a computer-generated version will still be able to put it on a single page.</p> <p>The form does need to be enlarged to include the listed documents and additional means of service.</p> <p>Revised form POS-010 will assist self-represented persons. Those who do not have access to the Internet will be able to type out or print the required information.</p> <p>Disagreed, especially because the rule will be retained.</p>

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				currently use to run our business and lowering the number of proofs that can be completed in a single day. In turn, costing the consumer more by the process servers having to raise their prices to compensate for the loss of their programs and the increase in time to complete the proof of service.	
5.	Committee on the Administration of Justice State Bar of California, San Francisco, California	AM	Y	The Committee on the Administration of Justice supports this proposal, but believes the form should state, at item 7, that the person who served the papers must type or print legibly his or her name, address, and telephone number. Questions concerning service might arise long after service has purportedly been made, and it is important that the person who actually served the papers be easily identified and located.	The committee did not regard it as necessary to add a statement that the name, address, and telephone number should be printed legibly.
6.	Mr. Cory Farrer Vice President of Operations One Legal, Inc.	N	N	Although the change sounds simple on the surface, the existing JCC format for a Proof of Service of Summons has been in existence for a long time. Our service, other services like ours and others in the legal profession have invested large sums of money to develop software to generate forms that conform to the current requirement. The cost to make the necessary changes to software to generate a Proof of Service that conforms with the new requirement would be very high. Forcing court customers to make that investment to generate a paper form doesn't make sense, especially in light of the effort to move to electronic filing.	The committee agreed that rule 982.9 should be retained, but should also be revised to reflect the revision of form POS-010 and to modernize the language.

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				Additionally, there isn't enough change to the existing form to justify a second page and all of the extra expense and it's more paper. At the very least, this should be an optional use rather than a mandatory use form. Why force users to include information on the form that does not even apply when just the relevant service information can be displayed.	Disagreed. The form should be revised to contain all the requisite information.
7.	Mr. Carlos Frontela President Legal Process Services, Inc.	N	N	By having the affidavit on two pages, you are inviting error and misplacement of the affidavit. Eventually, process servers will make the affidavit on two pages. You should keep the current form and make any new modifications to this one.	Disagreed. The two-page form will provide one comprehensive form for use in most types of civil cases. Based on rule 982.9, process servers will be able to submit a single-page version of the form.
8.	Mr. Tony Klein Attorney Service of San Francisco	N	N	<u>Rule 982.9:</u> The Invitation to Comment section proposed a repeal of rule 982.9 that currently authorizes proofs of service prepared by typewriter if certain conditions are met. The suggestion that forms were often prepared by typewriters implies that they are no longer prepared that way. They are still used to fill in these forms. . . . The rule originally allowed the use of typewritten proofs of service conditioned upon a requirement to include all relevant items, numbered consistent with and in accord with the Judicial Council proof of service forms. It allows irrelevant information on the form to be excluded from the proof of service form. The reasons for retaining rule 982.9 still exist and are not obsolete. Not all litigants fill these forms out on a computer. Even with the	The committee agreed that rule 982.9 should be retained, but should be revised to reflect the revisions in form POS-010 and to modernize its language.

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				<p>proposal to provide fillable versions of this form, there will still remain a need to type them as is now permitted.</p> <p><u>Form POS-010:</u>  First, I want to encourage you to retain the current form. The information now fits on one side of the page, which is the goal of the Judicial Council. Two sided forms will often turn into a two-page form when they are filed, regardless of whether they are typed or printed out on a laser printer. For a case that names ten defendants requiring proofs of service on each defendant, the court clerks will likely be filing 20 pieces of paper, not 10. Back-to-back copying makes sense, but requires additional handling. Some courts have rules rejecting back-to-back copies that are not made "head to toe" (so that the document can be read by flipping up the bottom of the page without turning over the file).</p> <p>The Attorney or Party box in the upper left should not include "E-MAIL ADDRESS (<i>Optional</i>): or "FAX NUMBER (<i>Optional</i>):" If its optional, leave it off. If someone wants to provide it, they will. It clutters the form visually, and hogs space for entering in the information, especially when the area code and telephone number are too long and bump into the FAX NUMBER label.</p>	<p>The committee believes the form should be revised for the reasons explained in the Judicial Council report.</p> <p>The spaces for this information are on most Judicial Council forms designed to be filed. The notification to the filing parties that the information about fax and e-mail numbers is optional reflects rule 201 and the policy behind it. If this information were omitted, filing parties might think they are required to provide the information.</p> <p>Agreed generally. However, the lettering of</p>

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				<p>Item 2 (Documents Served): The check boxes are a nice addition, but there is far too much space provided. The boxes do not need to be lettered (a, b, &amp; c), and they can be spread out on the same line. An additional box for the "ADR Package" should be included.</p> <p>Item 3 (Party Served): There is way too much space provided on the form. Most defendants can easily fit on 2 lines in the current form.</p> <p>Missing from the new form is a distinction made between the "Party served" and the "Person served." There is a legal distinction between the two when a service is made, especially when serving a corporation.</p> <p>Item 4 (Address): There is too much space provided for this entry. The current form provides only 2 lines and is adequate.</p> <p>Item 5 (Manner of Service): Item 5(a) only makes reference to personal service pursuant to C.C.P., § 415.10, service on an individual. There is no reference to personal service on a corporation, partnership, etc. (C.C.P., § 416.10, et seq.)</p> <p>[Items 5b(4) and 5b(5)] fall on page two of the form so the person looking for the information must turn</p>	<p>the boxes and items makes them easier to identify so they have been retained. An additional box/item has been added for "Alternative Dispute Resolution (ADR) package."</p> <p>The space for the "Party served" has been reduced.</p> <p>Agreed. The distinction and the space for providing this information has been restored to the form. The space is located at item 3.</p> <p>Agreed. The space has been reduced.</p> <p>Agreed. A reference to C.C.P. § 416.10 has been added.</p> <p>Agreed. The form has been adjusted to make it clearer.</p>



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				<p>the page to find it.</p> <p>Item [5(b)(5)] only references C.C.P., § 415.20(b), mailing to an individual who was suberved. Without reference to C.C.P., § 415.20(a), the form omits substituted service on a corporation, partnership, etc., unless the server explains it elsewhere on the form.</p> <p>Item [5b(6)] states that a declaration of diligence is attached, yet substituted service on a corporation or partnership requires no diligence declaration.</p> <p>Item 5c does not allow the server to state that the documents were "caused to be mailed." This frequently happens when a process server suberves the document and the follow-up mailing is done by someone else.</p> <p>Item 7: There is little reason to provide so much space for address information. The current form accomplishes this quite adequately by stacking the information side by side.</p> <p><u>Conclusion</u> I urge you to retain the current rule 982.9.</p> <p>Elimination of this rule would also affect the preparation of other proofs of service forms such as</p>	<p>Agreed. The reference has been added.</p> <p>Agreed. A box has been added before 5b (circulated as 5b(6)) to indicate this item is optional.</p> <p>A separate declaration should be filed by the person who mailed the documents. In item 5b(4), a check box has been provided before the statement "a declaration of mailing is attached," to provide for follow-up mail as described by the commentator.</p> <p>Disagreed. The additional space is useful. For process servers using computer-generated forms, the forms will generally still fit on a single page.</p> <p>Agreed.</p>

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				<p>Family Law and Domestic Violence documents.</p> <p>The current form is working fine. With a few tweaks, such as adding boxes for documents served, this form can remain a single-sided form. It also will conform the Judicial Council's e-filing goals when this form is filed.</p> <p>Finally, your goal to allow an on-line fillable version of the form is welcome news.</p>	<p>Disagreed. The revised form is clearer, an overall improvement, and more up-to-date.</p> <p>Agreed.</p>
9.	Mr. Stephen V. Love Executive Officer Superior Court of California, County of San Diego	AM	N	<p>Item 3 doesn't need to be double-spaced.</p> <p>Item 5b needs more space after the name and title or relationship to respondent.</p> <p>Item 6: Request that C.C.P., § 415.45 (posting and mailing) and C.C.P., § 415.46 (unknown occupants) be added.</p> <p>Item 7: The wording and format are different than on other proofs of service.</p>	<p>Disagree. The space is useful.</p> <p>As further revised, the information will be provided in item 3b.</p> <p>An item for indicating service by posting has not been added though 5d maybe used for that purpose. An item for indicating service on occupants has been added. (See item 6c.)</p> <p>POS-010 will replace most of the other forms.</p>
10.	Mr. Don Norris President Sirron Software Corporation	AM	N	(See attached forms.)	The committee considered the attached forms.
11.	Orange County Bar Association P.O. Box 17777	AM	N	The following amendments are proposed for Proof of Service of Summons Form:	

**SPR03-15**

## Service of Summons: Proof of Service of Summons

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	Commentator		Comment on behalf of group?	Comment	Committee Response
				<p>1. The indentation is inconsistent from page 1 to page 2. See, for e.g., 5(b)(1) and (2) are located about 1.5 cm from 5(b) on page 1. On page 2, however, 5(b)(3), (4), and (5) are indented about 0.5 cm from 5(b). 5(b)(3), (4), and (5) should be indented to line up with 5(c)(1). Correct indentation will make the proposed form easier to follow.</p> <p>2. Proposed form has a small typographical error in item 6. Where it states "Notice of Person Served," it should state "Notice to the Person served."</p> <p>3. There is a small indentation problem with 7(c)(1), (2), and (3). These should be indented to line up with 5(c)(1). After fixing that, 7 (c)(3), (i), (ii), (iii) should be indented to line up with the subsections under 6(c).</p>	<p>Agreed. The indentation has been adjusted on the form.</p> <p>Agreed. This has been corrected.</p> <p>Agreed. This has been corrected.</p>
12.	Tina Rasnow Coordinator Superior Court of California, County of Ventura	AM	N	<p>Regarding <i>Proof of Service of Summons</i> (POS-010), we agree with the proposed changes, but also suggest the following:</p> <p>A separate "PROOF OF SERVICE–GENERAL" form should be created that identifies under item 3: "I served copies of (<i>specify documents</i>): _____ .</p>	<p>The support for form POS-010 is noted.</p> <p>A separate general proof is being developed.</p>
13.	Julie Setzer Superior Court of California, County of Sacramento	AM	N	I further recommend that "Civil Case Cover Sheet" be added to the POS-010 form under section 3.	Agreed. This document is now listed in item 2.
14.	Eve Sproule	AM	N	1. Item 5b contains extraneous language "to the	This has been corrected.

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	Clerk/Administrator Court of Appeal, Fifth Appellate District			party," which should be deleted.  2. Just a question. The old form said "defendant" instead of "respondent." Is the change intended?	To be more flexible and accurate, the revised form will use party instead of either "defendant" or "respondent."
15.	S. Stuchlik Court Section Supervisor Superior Court of California, County of Alameda	AM	N	<u>Rule 982.9:</u> Reference to rule 501 should be deleted. Rule 501 was abolished.	Agreed. The reference has been deleted in the amended rule.
16.	Sergeant Michael Torres Sergeant Los Angeles County Sheriff's Department	AM	N	The proof of service only provides for the signature of the person serving the document and does not provide for the signature of a deputy of a sheriff's department who did not serve the process, but nevertheless attests to the service by another deputy.  The Los Angeles County Sheriff's Department, like many other sheriff's departments, has utilized a computerized case management system (MAPAS) for 20 years that prints a proof of service that is signed by a deputy of the department who is not necessarily the deputy who served the process. At the time of service, the serving deputy fills out an internal form ("service ticket") indicating the details of service. The serving deputy or another employee of the Department then enters the services details, e.g., date, time, place, manner of service, name and identification number of the serving deputy, into MAPAS. MAPAS then prints out a "certificate of service" that is signed by the employee (peace officer or civilian employee) who is logged into the system. The certificate of service is	The committee mostly retained the current format in this regard, but added “/sheriff or marshal ” to the line identifying the person signing the proof and made some other modifications.

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				<p>signed on behalf of the Sheriff under penalty of perjury as true and correct. This policy and procedure have been researched and opined as legally sufficient in an opinion rendered by Los Angeles County Counsel in 2002: "The procedure of ...personnel signing the certificate of service with regard to a summons or subpoena actually served by another deputy is an enforceable certificate of service."</p> <p><u>Requested Modification:</u></p> <p>Add a line indicating the names of the sheriff and the deputy certifying as well as a line for the certifying deputy's signature.</p>	<p>The revised form provides boxes for the person signing to indicate that (1) the person is signing the proof under penalty of perjury, or (2) the person signing is a California sheriff or marshal certifying the proof of service. The committee also modified the signature line to read: (Name of person who served papers/sheriff or marshal)," but did not include a line for a certifying deputy's signature. It concluded that these revisions to the form are adequate.</p>
17.	Ms. Denise M. Trerotola Superior Court of California, County of Ventura	A	N	Wonderful form!	No response required.
18.	Mr. Christopher P. Trindade President California Assoc. of Photocopiers and Process Servers	N	Y	<p>The California Association of Photocopiers and Process Servers is opposed to both proposed Form POS-010 and repeal of Rule 982.9.</p> <p>1. <u>Repeal of Rule 982.9:</u></p> <p>This rule change will affect our industry more than any other faction preparing proofs of service. It is estimated that the private process server industry completes over 60% of all filed proofs of service. Some companies produce hundreds of proofs of</p>	<p>The committee agreed that the rule should be retained, but should be modernized. Computer-generated forms should be consistent with form POS-010, though under the rule they may exclude irrelevant</p>

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				<p>service daily. While there are large process serving companies, this industry is dominated by small, "mom &amp; pop" operations. A mandatory, two-page proof of service will create a tremendous cost increase for every company.</p> <p>The Judicial Council may not realize that the proofs of service we create and file are prepared from integrated computer software programs, which perform a variety of functions relating to the file.</p> <p>Computer software programs have been developed to create proofs of service pursuant to Rule 982.9, section (a)(3) providing for "All relevant text that is optional (accompanied by a checkbox) shall be copied word for word except that the checkboxes shall not be copied." This provision allows for the production of precise proofs of service without unnecessary text.</p> <p>Repealing Rule 982.9, thereby requiring the mandatory completion of form POS-010, will unnecessarily increase the labor and technology budgets of every company:</p> <p>(1) Current proof of service software programs will become obsolete.</p> <p>(2) Obsolete software programs would require "duplicating" proof of service information to Form</p>	portions and thus will generally be shorter.

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				<p>POS-010.</p> <p>(3) Duplicating proof information will at least double manual labor hours.</p> <p>(4) Completing Form POS-010 will create an exhaustive and extreme burden of keystroke labor, regardless if the form is as on-line, text fill form.</p> <p>There is no reason to require our industry to complete "another form" –especially when precise proofs of service are generated on keystroke command by today's computer software programs.</p> <p>Repealing Rule 982.9, thereby requiring the mandatory completion of Form POS-010 (increasing from a 1-page to a 2-page proof), will also automatically increase the consumable costs of every company.</p> <p>Repealing Rule 982.9, thereby requiring the mandatory filing of Form POS-010, will [also] create cost burdens for the courts. . . . The production of precise proofs of service, pursuant to Rule 982.9, saves trial courts time and money. It requires less space to store a 1-page proof versus a 2-page proof. It requires less time to review a 1-page proof versus a 2-page proof (filled with unnecessary text). It requires less time to process a 1-page proof versus a 2-page proof (filled with unnecessary text).</p>	

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				<p>The repeal of Rule 982.9 would only create additional hours of clerk review (not including mistakes and confusions caused by a new form) imposing additional costs at the same time that personnel reductions are being considered.</p> <p style="text-align: center;">* * *</p> <p>Rule 982.9 or equivalent language must remain for consistent usage. The proposal discussion states "the Summons forms will continue to have a one-page proof of service on the reverse side. Parties may use either these forms or form POS-010 to show service of a summons." In this context, the one-page proof (on the reverse of the summons) is a "shorter version" of Form POS-010, thus there will be two different forms of Proof of Service of Summons.</p> <p>To be consistent with usage of the one-page proof (on the reverse of the summons), Rule 982.9 should not be repealed in order to allow for the continued production of precise proofs of service (without unnecessary text).</p> <p>The system for proof of service production has been in place for over 16 years and is continually being perfected with today's technology. If Form POS-010 is adopted, language must remain (consistent with Rule 982.9) to allow for the production of proofs with "only relevant text" of Form POS-010.</p>	<p>The committee's final proposal does not have this problem of potentially inconsistent forms. Form POS-010 will replace all the current proof of service forms of the reverse sides of summonses, which will be eliminated. Thus, POS-010 can readily serve as the basis for a amended, modernized rule 982.9.</p> <p>The committee agreed that an amended version of rule 982.9 should be retained.</p> <p>Agreed.</p>



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				<p>2. <u>Form POS-010:</u></p> <p>We have a number of concerns with the current version of Form POS-010 [circulated for comment]. There are vital entry fields missing for service of process details and inconsistent language. The following should be addressed:</p> <p>(1) Section 5a is missing an entry field to name an authorized agent for service of process or officer of a corporation, partnership, etc., when personally serving the agent or officer of the same corporation, partnership, etc. [5b(4)]</p> <p>(2) Section is missing a reference to C.C.P., § 415.20(a) and C.C.P., § 415.20(b).</p> <p>(3) Section [5b(5)] is missing a check box for "affidavit of mailing is attached" for persons other than the process server who mail copies to the party served.</p> <p>(4) In Section 5b—by substituted service: reference to "respondent" should be "party."</p> <p>(5) In Section 5b(2)—(home): reference to "respondent" should be "party."</p> <p>(6) Above corrections (1) and (2) should be made to be consistent with the use of "party" in Sections 5a—by personal service and 5b(1)—(business).</p> <p>(7) In Item 3: add a check box for "ADR forms" or "ADR package" – This would eliminate the need to type and list each individual ADR package document.</p>	<p>Agree. This filed has been restored in new item 3b.</p> <p>Agree. Three references have been added.</p> <p>Agree. A check box and statement "declaration of mailing is attached" has been added to item 5b(5).</p> <p>Agree. This has been corrected.</p> <p>Agree. This has been corrected.</p> <p>Agree.</p> <p>Agree. "Alternative Dispute Resolution (ADR) package" has been added to the list of items served in item 2.</p>

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				<p>In the [Invitation to Comment], it is stated that the Form "...would be revised to conform to the contemporary format of Judicial Council forms and to contain more space for information." We do not believe an entire second page is necessary to create more space for information. An individual, occasionally filing a proof of service, "may need more space" because of unfamiliarity with the form, but as an industry that completes over 60% of all daily filed proofs of service, it is a rare occurrence that we run out of space.</p> <p>The California Association of Photocopiers and Process Servers commends the Judicial Council for taking progressive steps in creating uniform forms for usage. However, [the proposal] should not be approved, especially the repeal of Rule 982.9. Ideally, Rule 982.9 should be retained. If not, then a new rule should be adopted to allow registered process servers only to prepare proofs of service by typewriter, word processor printer, or similar process.</p>	<p>The additional space on the form is needed to provide all the items necessary to make this form usable for providing proof of service of summonses and complaints under all the principal methods authorized by current law. However, professional process servers generating their own forms under rule 982.9 will generally be able to file a shorter proof.</p> <p>The committee agreed that rule 982.9 should be retained, but modernized.</p>